

Memorandum to the City of Markham Committee of Adjustment

July 17, 2020

File: A/072/20
Address: 4389 19th Ave – Markham, ON
Applicant: Alex La Moglie & Maria La Moglie
Agent: Giuliano La Moglie
Hearing Date: Thursday July 23, 2020

The following comments are provided on behalf of the West Team. The applicant is requesting relief from the following requirements of the “Rural Residential Four (RR4) Zone” under By-law 304-87, as amended, as it relates to a proposed detached garage. The applicant is requesting the following variance to permit:

a) Section 7.5 (b)(iii):

a minimum side yard setback of 1.53 m (5.02 ft), whereas the By-law requires minimum side yard setback of 6.0 m (19.69 ft).

BACKGROUND

Property Description

The 2.02 ha (5.01 ac) subject property is located on the south side of 19th Avenue, within one of the City’s four historic settlement areas known as Almira. The subject property is generally bounded by Warden Avenue (to the east of the property), and Kennedy Road (to the west of the property). Almira is a rural hamlet, primarily comprised of low density residential uses, agricultural uses, and accessory structures and buildings.

The subject property has a lot frontage of 50.76 m (166.54 ft) and lot depth of 402.10 m (1,319.22 ft), and is developed with an existing two-storey single detached dwelling, two existing frame barns, and mature trees and vegetation throughout. The applicant has also confirmed existing uses on the subject property which include a mix of residential and agricultural uses including the raising of farm poultry, pigeons, as well as fruits and vegetables. The subject property is east of, and adjacent to an existing cornfield which is under separate ownership.

Proposal

The applicant is proposing to construct a two-storey detached accessory building to be used as a parking garage with storage areas on both the first and second floor. The applicant has confirmed that the proposed structure has been partially constructed, and is requesting relief from the minimum side yard setback along the west property line to permit a building with a total gross floor area of 210.40 m² (2,264.73 ft²), evenly divided between the two floors.

Official Plan and Zoning

Official Plan 2014 (partially approved on November 24/17, and updated on April 9/18)

The subject property has a split designation of “Hamlet” and “Countryside” by the 2014 Official Plan. The applicant is proposing a detached garage for the parking of vehicles and storage, located north of the existing frame barn as shown in the attached site plan (Appendix “B”). The proposed building is located within the northern portion of the property which is designated “Hamlet.”

Zoning By-Law 304-87

The subject property is zoned “Rural Residential Four (RR4) Zone” under By-law 304-87, as amended, which permits the following uses: one single detached dwelling; home occupation; private home day care subject to meeting specific criteria as set out in the By-law; and agricultural uses as permitted by the “Agricultural (A1) Zone” which includes accessory buildings. The proposed development does not comply with the minimum required side yard setback of 6.0 m (19.69 ft) in the By-law. Staff note that the application and proposed structure is associated with development standards only, and through this application additional uses are not authorized.

Applicant’s Stated Reasons for Not Complying with Zoning

According to the information provided by the applicant, the reasons for not complying with zoning are, *“due to the existing structures and layout of the subject property, there is no opportunity elsewhere to locate the proposed detached garage. As a non-conforming structure existed previously, the intention is to utilize the location and area of the previous non-conforming structure.”*

Zoning Preliminary Review (ZPR) Undertaken

The applicant completed a ZPR on June 17, 2020 to confirm the requested variance required for the proposed development.

COMMENTS

The *Planning Act* states that four tests must be met in order for a variance to be granted by the Committee of Adjustment:

- a) The variance must be minor in nature;
- b) The variance must be desirable, in the opinion of the Committee of Adjustment, for the appropriate development or use of land, building or structure;
- c) The general intent and purpose of the Zoning By-law must be maintained;
- d) The general intent and purpose of the Official Plan must be maintained.

Reduced Side Yard Setback

The applicant is requesting a minimum west side yard setback of 1.53 m (5.02 ft) for the proposed accessory building, whereas the By-law permits a minimum side yard setback of 6.0 m (19.69 ft). The requested variance would only apply to the two-storey accessory building which has an approximate depth of 12.17 m (39.93 ft), and width of 8.67 m (28.44 ft).

The applicant has advised staff of concerns expressed from the owner of the adjoining lands to the east regarding the partially constructed accessory building. The site plan attached in Appendix “B” indicates that the front of the building line would be setback approximately 83.09 m (272.60 ft) from the front lot line. Staff also recognize that an existing frame barn closest to the west property line is also within the permitted interior side yard setback. Given the depth of the proposed setback from the front lot line, staff are of the opinion that the proposed location of the accessory building would not adversely impact the character of the hamlet, and do not object to the variance.

The applicant has applied for a variance under Sections 45(1), and 45(2)(a) of the *Planning Act* which provides other powers to Committee where any land building or structure was lawfully used on the day the By-law was passed, for a purpose now prohibited by the By-law. As of the date of the writing of this memorandum, the applicant

has not provided any legal documentation that the previously existing shed was legally constructed thereby affording it a legal non-conforming status. Therefore, staff are unable to confirm whether the previous building was legally non-conforming. For Section 45(2) to be considered by Committee, staff would require that the applicant demonstrate that the previously existing structure had legal non-conforming status in order for this to be applicable.

PUBLIC INPUT SUMMARY

As of July 17, 2020, the City received one written submission from an area resident expressing concern over the number of buildings/structures on the property. Staff confirm that accessory buildings or structures are permitted provided they comply with the standards of the "Rural Residential (RR4) Zone", and provisions of the By-law.

It is noted that additional information may be received after the writing of the report, and the Secretary-Treasurer will provide information on this at the meeting.

CONCLUSION

Planning staff have reviewed the application, and recommend that Committee satisfy themselves that the variance application meets the four tests under Section 45(1) of the *Planning Act*. Staff recommend that the Committee consider public input in reaching a decision.

The onus is ultimately on the applicant to demonstrate why they should be granted relief from the requirements of the By-law, and how they satisfy the requirements of the *Planning Act* for the granting of minor variances.

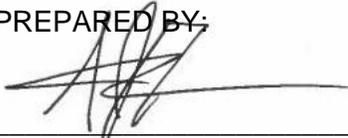
Please see Appendix "A" for conditions to be attached to any approval of this application.

APPENDICES

Appendix "A" – Conditions of Approval

Appendix "B" – Plans

PREPARED BY:



Aleks Todorovski, Planner, Zoning and Special Projects

REVIEWED BY:

Rick Cefaratti, Senior Planner, West District for:

David Miller, Development Manager, West District

APPENDIX "A"

CONDITIONS TO BE ATTACHED TO ANY APPROVAL OF FILE A/072/20

1. The variances apply only to the proposed development as long as it remains.
2. That the variances apply only to the subject development, in substantial conformity with the batch stamped plans attached as Appendix "B" to this Staff Report and received by the City of Markham, and that the Secretary-Treasurer receive written confirmation from the Director of Planning and Urban Design or designate that this condition has been fulfilled to his or her satisfaction.

CONDITIONS PREPARED BY:



Aleks Todorovski, Planner, Zoning and Special Projects

APPENDIX "B"
PLANS TO BE ATTACHED TO ANY APPROVAL OF FILE A/072/20

SURVEYOR'S REAL PROPERTY REPORT
 PART 1) PLAN AND TOPOGRAPHIC DETAIL OF
PART OF LOT 30, CONCESSION 5
 (FORMERLY TOWNSHIP OF MARKHAM)

TOWN OF MARKHAM
 REGIONAL MUNICIPALITY OF YORK
SCALE 1:1000

10.0 0 10.0 50.0metres
VLADIMIR DOSEN SURVEYING, O.L.S.



METRIC
 DISTANCE
 IN METRE
 TO FEET

Appendix B

ST. Files: 20.118073.000.00.MMY, ARE
 AND CAN BE CONVERTED
 BY DIVIDING BY 3.28084
 Date: 07/17/20
 MM/DD/YYYY

ASSOCIATION OF ONTARIO
 LAND SURVEYORS
 PLAN SUBMISSION FORM
1766615



THIS PLAN IS NOT VALID
 UNLESS IT IS AN EMBOSSED
 ORIGINAL COPY
 ISSUED BY THE SURVEYOR
 In accordance with
 Regulation 1026, Section 29(3).

19th AVENUE

(ROAD ALLOWANCE BETWEEN LOT 30 & LOT 31)

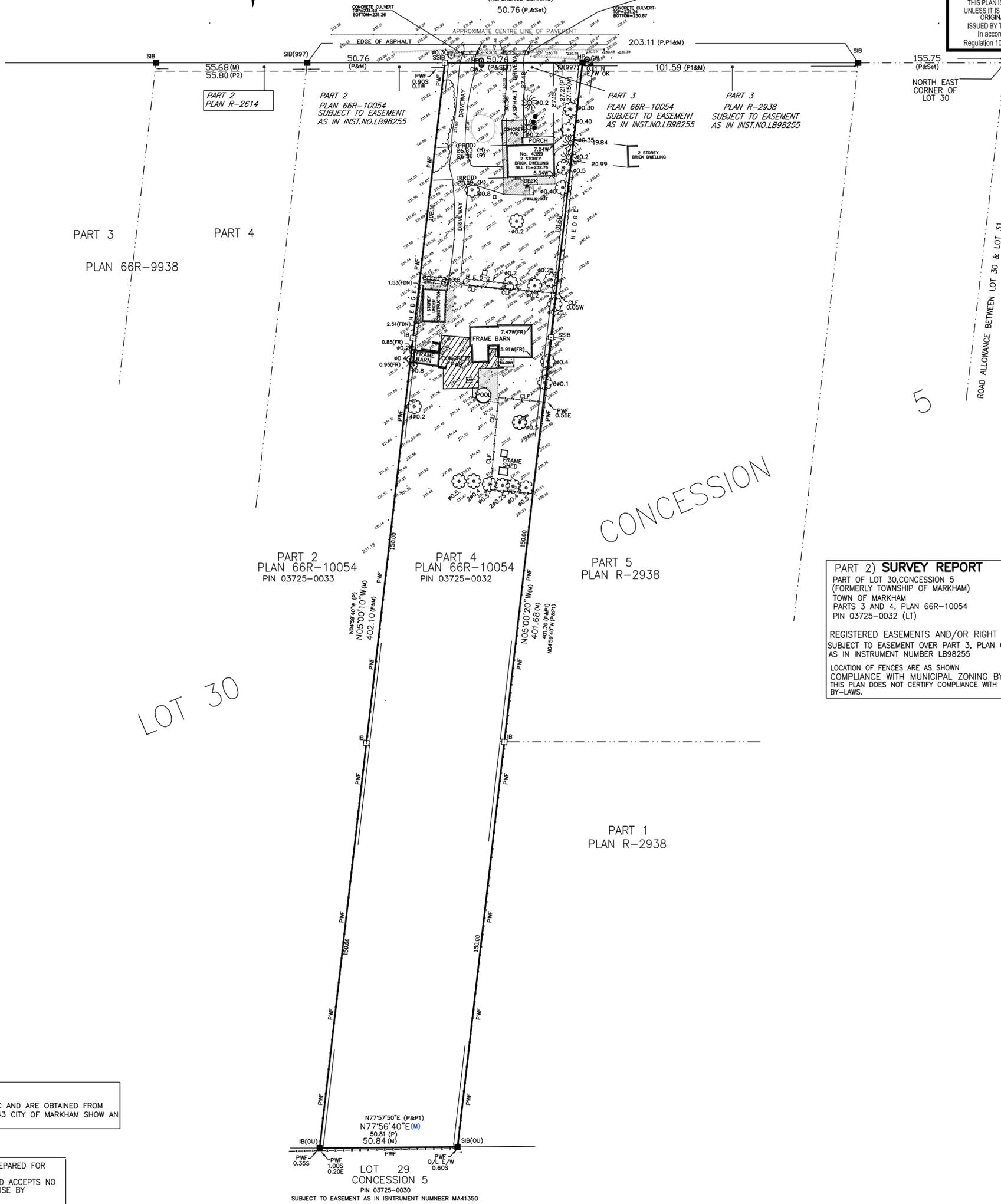
PIN 03725-0002

N78°24'30"E

(P&P1)

(REFERENCE BEARING)

50.76 (P.&Set)



LOT 30

CONCESSION

5

PART 2) SURVEY REPORT
 PART OF LOT 30, CONCESSION 5
 (FORMERLY TOWNSHIP OF MARKHAM)
 TOWN OF MARKHAM
 PARTS 3 AND 4, PLAN 66R-10054
 PIN 03725-0032 (LT)

REGISTERED EASEMENTS AND/OR RIGHT OF WAYS:
 SUBJECT TO EASEMENT OVER PART 3, PLAN 66R-10054
 AS IN INSTRUMENT NUMBER LB98255

LOCATION OF FENCES ARE AS SHOWN
 COMPLIANCE WITH MUNICIPAL ZONING BY-LAWS:
 THIS PLAN DOES NOT CERTIFY COMPLIANCE WITH ZONING
 BY-LAWS.

BENCHMARK:
 ELEVATIONS ARE GEODETIC AND ARE OBTAINED FROM
 BENCHMARK NO.092901143 CITY OF MARKHAM SHOW AN
 ELEVATION OF 230.710 M

THIS REPORT WAS PREPARED FOR
 GIULIANO LA MOGLIE
 AND THE UNDERSIGNED ACCEPTS NO
 RESPONSIBILITY FOR USE BY
 OTHER PARTIES.

- NOTES AND LEGEND**
- DENOTES SURVEY MONUMENT PLANTED
 - DENOTES SURVEY MONUMENT FOUND
 - SIB DENOTES STANDARD IRON BAR
 - IB DENOTES IRON BAR
 - SET DENOTES MEASURED SET
 - M DENOTES MEASURED
 - P DENOTES PLAN 66R-10054
 - P1 DENOTES PLAN R-2938
 - P2 DENOTES PLAN 66R-9938
 - (997) DENOTES J.J.KONING, O.L.S.
 - FR DENOTES FRAME
 - FDN DENOTES FOUNDATION
 - HP DENOTES HYDRO POLE
 - PWF DENOTES POST AND WIRE FENCE
 - N/S/E/W DENOTES NORTH/SOUTH/EAST/WEST
 - ∅ DENOTES DIAMETER
 - 150.10 DENOTES EXISTING ELEVATION
 - ⊙ DENOTES DECIDUOUS TREE
 - ⊙ DENOTES CONIFEROUS TREE
 - CLF DENOTES CHAIN LINK FENCE
 - (OU) DENOTES ORIGIN UNKNOWN

NO PERSON MAY COPY, REPRODUCE, DISTRIBUTE OR ALTER THIS PLAN IN WHOLE OR IN PART
 WITHOUT THE WRITTEN PERMISSION OF VLADIMIR DOSEN, O.L.S.

SURVEYOR'S CERTIFICATE

I CERTIFY THAT:
 1. THIS SURVEY AND PLAN ARE CORRECT AND IN ACCORDANCE WITH
 THE SURVEY ACT, THE SURVEYORS ACT AND THE
 REGULATIONS MADE UNDER THEM.
 2. THE SURVEY WAS COMPLETED ON THE 30th DAY OF MAY, 2020.

DATE: JUNE 9, 2020
 VLADIMIR DOSEN, B.Sc.
 ONTARIO LAND SURVEYOR

BEARING NOTE:
 BEARINGS ARE ASTRONOMIC AND ARE DERIVED FROM THE NORTHERLY LIMIT OF LOT 30,
 HAVING A BEARING OF N78°24'30"E IN ACCORDANCE WITH PLAN R-2614
 HAVE A BEARING OF

VLADIMIR DOSEN SURVEYING
 ONTARIO LAND SURVEYORS
 555 DAVISVILLE AVENUE
 TORONTO, ONTARIO M4S 1J2
 PHONE (416) 466-0440 EMAIL: vladdosen@rogers.com

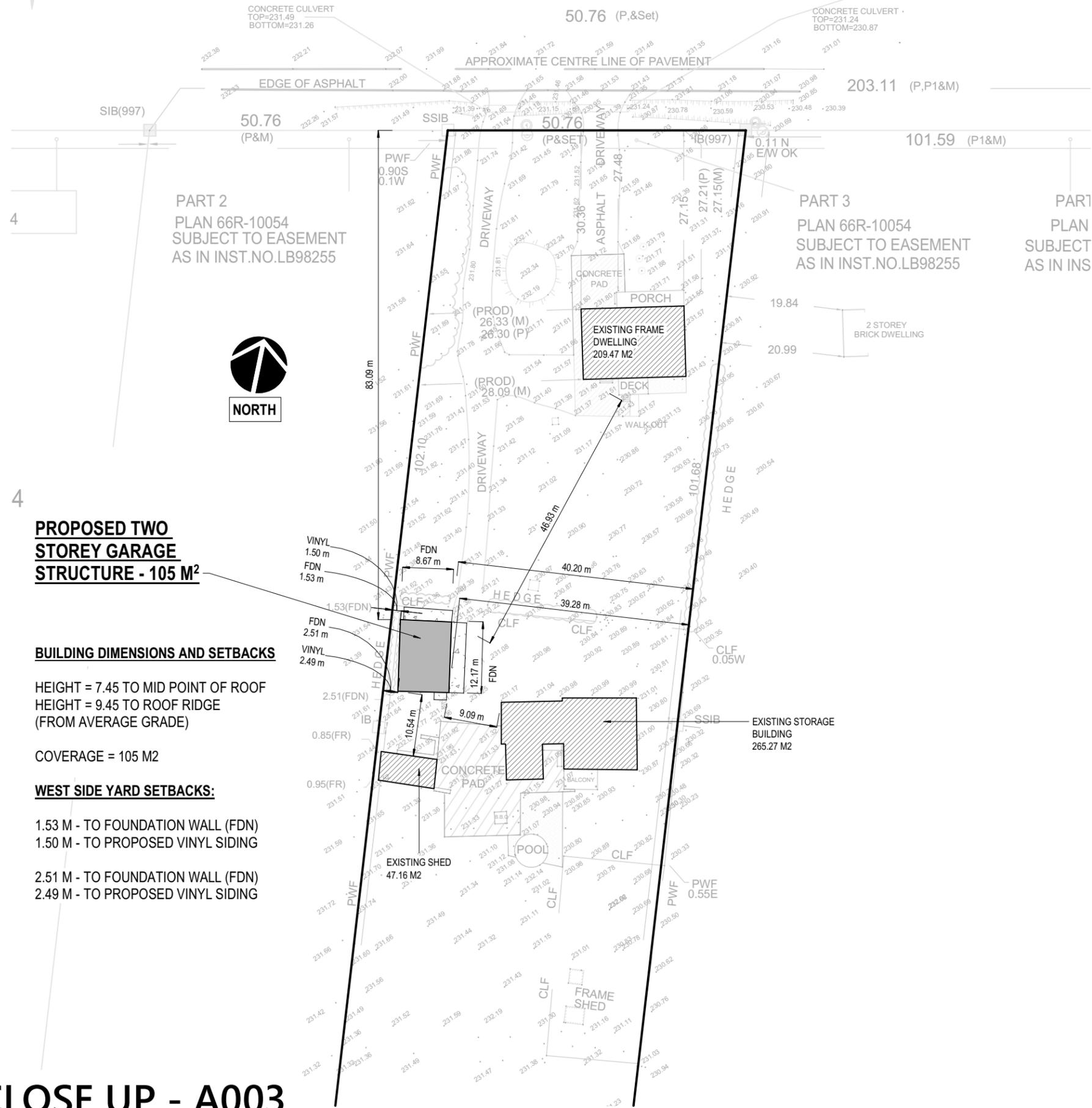
JOB No: 20266 FIELD BY: FK
 FILE: 20-262 DRAWN BY: FK
 CAD FILE: 4389 19th AVENUE CHECKED BY: VD

PROPOSED TWO STOREY DETACHED GARAGE AT # 4389, 19th AVENUE, MARKHAM ON L6C 1M10"E (P&P1)
(REFERENCE BEARING)

Appendix B

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Date: 07/17/20
MM/DD/YY



PROPOSED TWO STOREY GARAGE STRUCTURE - 105 M²

BUILDING DIMENSIONS AND SETBACKS

HEIGHT = 7.45 TO MID POINT OF ROOF
HEIGHT = 9.45 TO ROOF RIDGE
(FROM AVERAGE GRADE)

COVERAGE = 105 M²

WEST SIDE YARD SETBACKS:

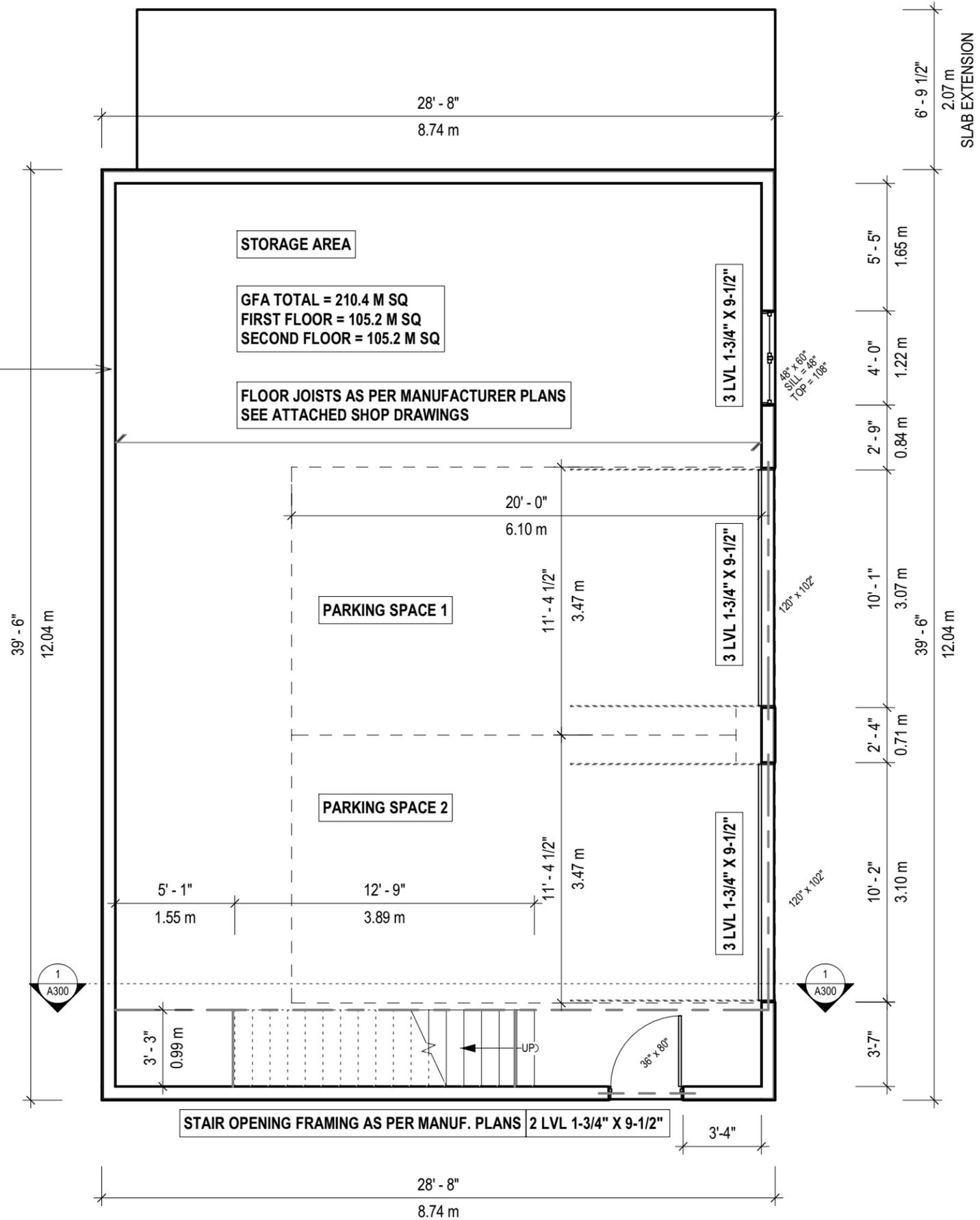
1.53 M - TO FOUNDATION WALL (FDN)
1.50 M - TO PROPOSED VINYL SIDING

2.51 M - TO FOUNDATION WALL (FDN)
2.49 M - TO PROPOSED VINYL SIDING



PROJECT NORTH

NEW 2X6 EXTERIOR WALL
 - VINYL SIDING INSTALLED AS PER MANUF. INSTRUCTIONS
 - APPROVED AIR BARRIER MEMBRANE
 - 1/2" PLYWOOD SHEATHING
 - 2X6 WOOD STUDS @ 16" O.C.
 - 5/8" TYPE X DRYWALL FOR ANY WALLS CLOSER THAN 1.2M (48") TO THE PROPERTY LINE REQUIRED



Appendix B

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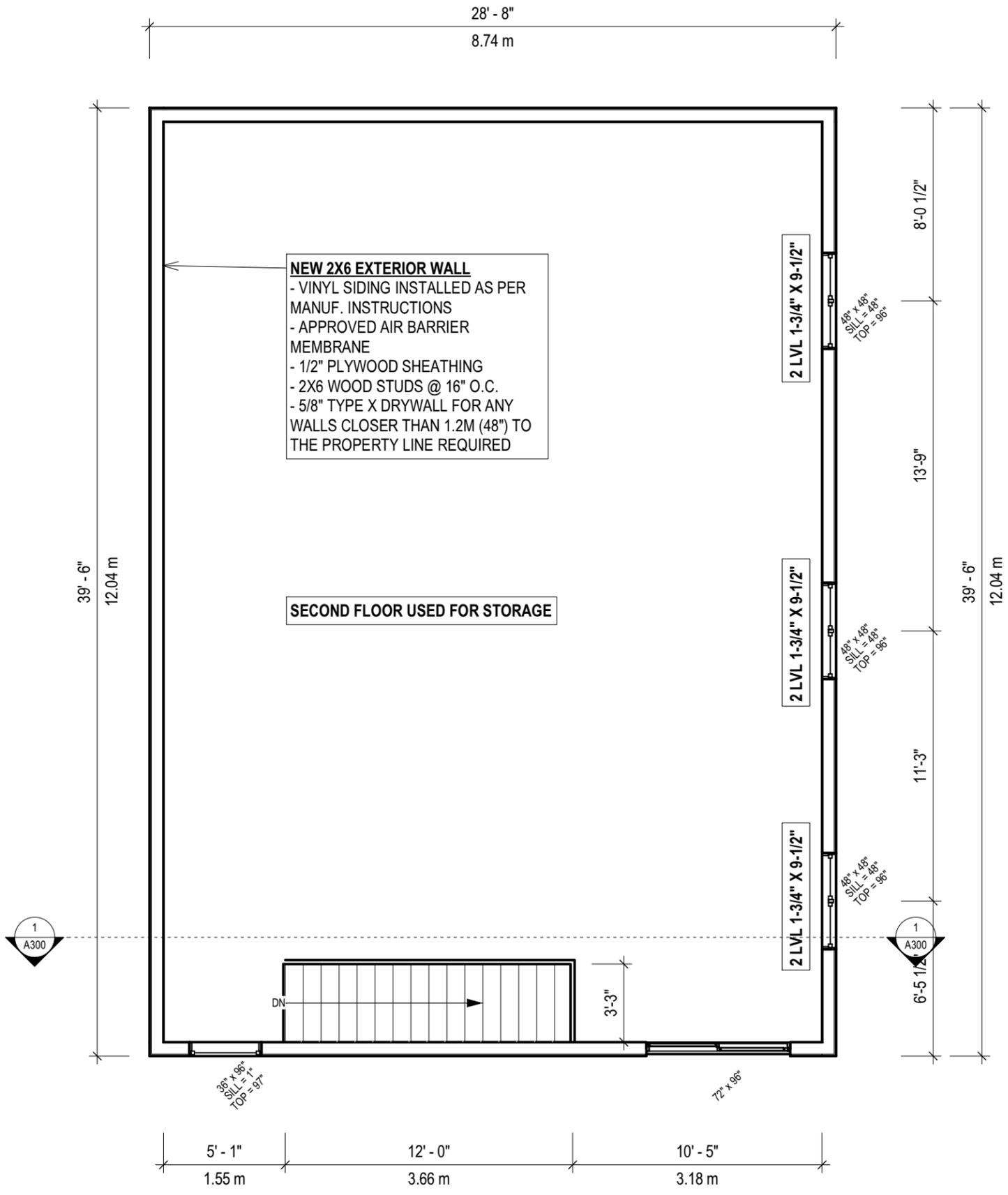
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TOP OF SLAB - A101

SCALE: 3/16" 1-0"



PROJECT NORTH



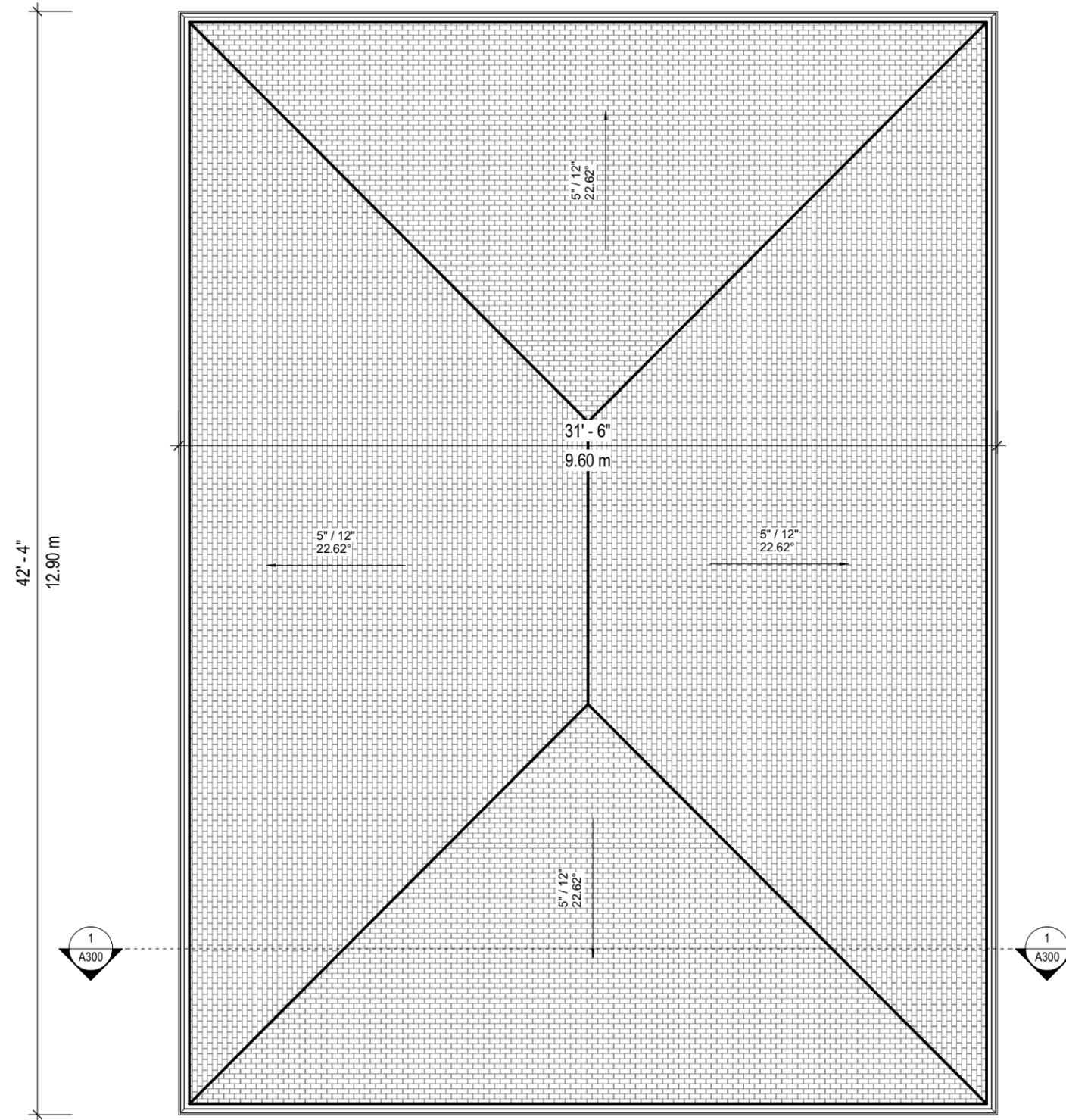
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PROJECT NORTH



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EAST (FRONT) - A200

SCALE: 3/16" = 1'-0"

Appendix B

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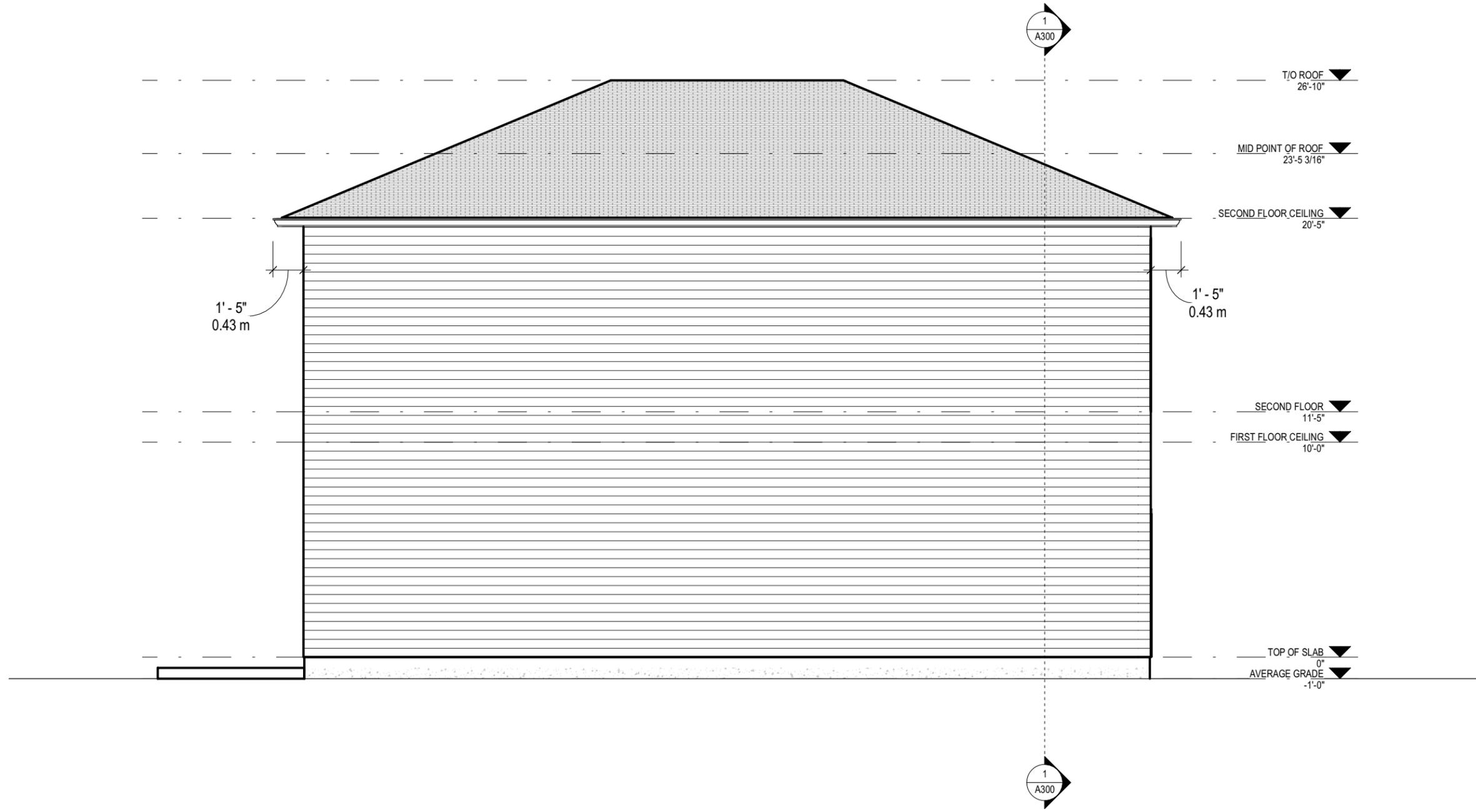
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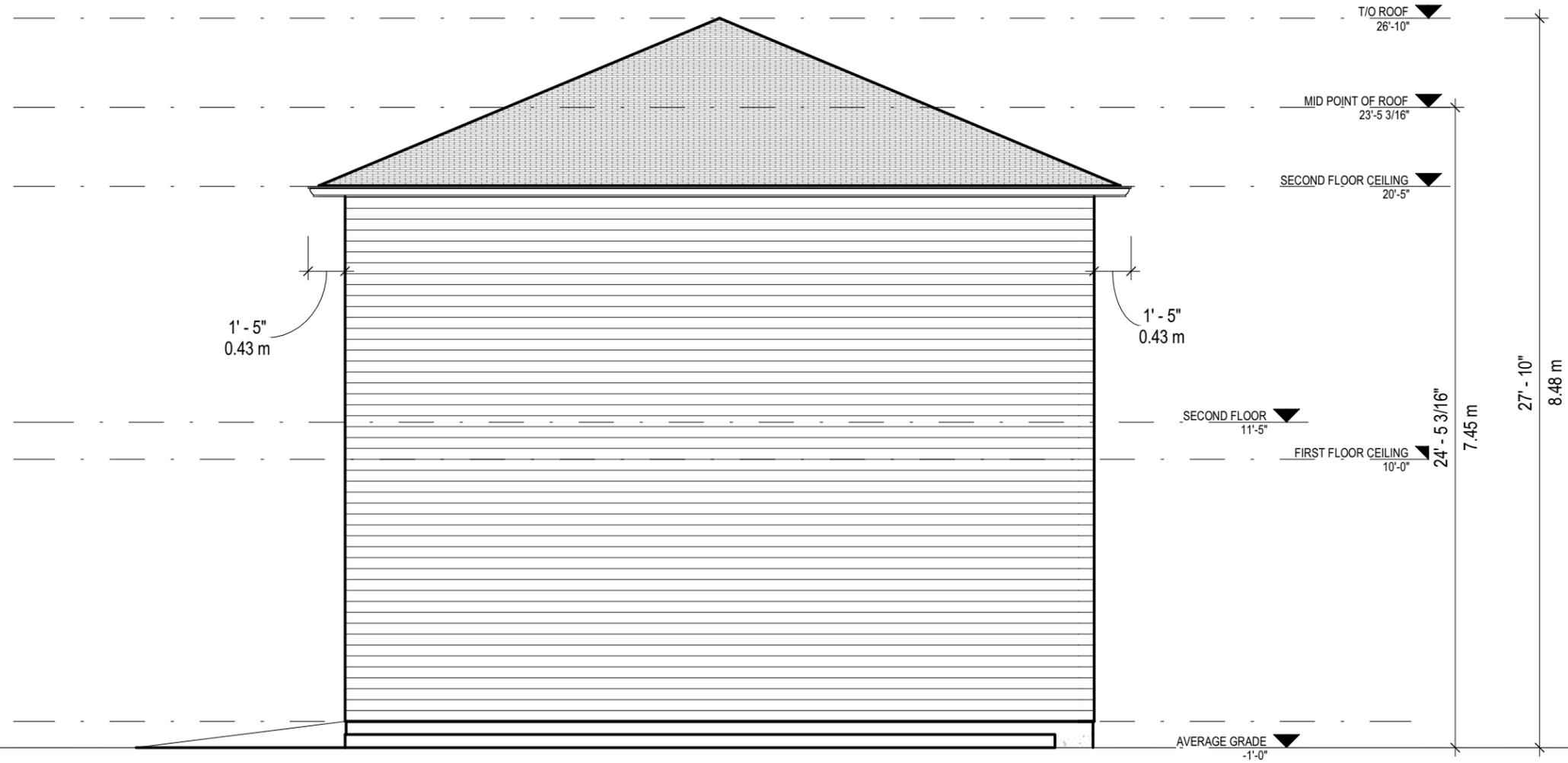
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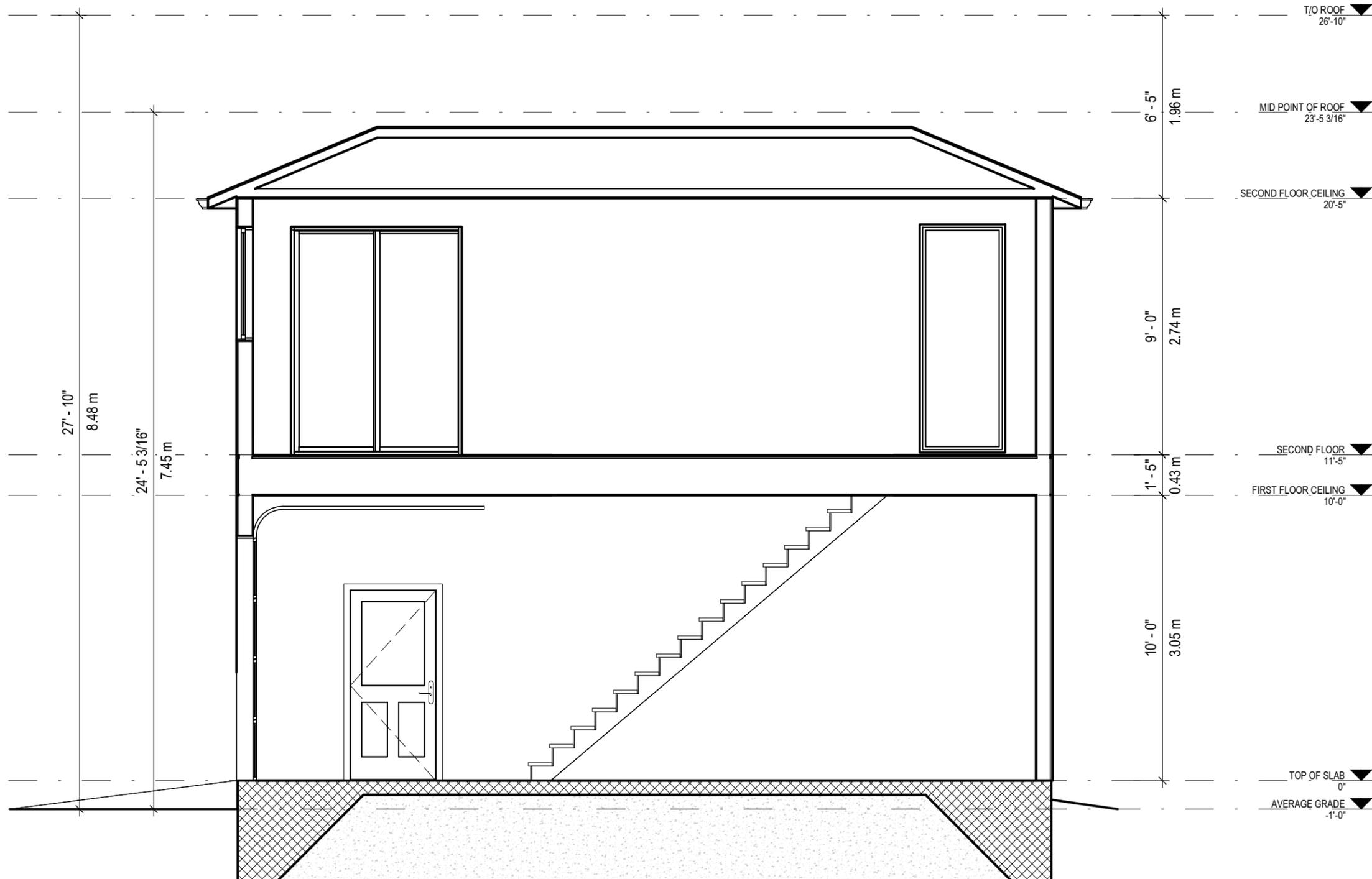
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SECTION - A300

SCALE: 1/4" = 1'-0"